

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

NIKOLAUS BOSCARINO

Petitioner,

: Case No. 3:15-cv-417

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

ERNIE MOORE, Warden,
Lebanon Correctional Institution,

:

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATIONS

This habeas corpus case is before the Court on Report and Recommendations of the Magistrate Judge (ECF No. 4) recommending that Ground One in the Petition be dismissed under 28 U.S.C. § 2244(b)(1) because it is the same claim Petitioner presented in a prior habeas petition and Ground Two be transferred to the Sixth Circuit Court of Appeals under 28 U.S.C. § 2244(b)(2).

Petitioner sought and received an extension of time within which to file objections, but the extended time has now expired and no objections have been filed. It is accordingly ORDERED that the Report and Recommendations be ADOPTED, Ground One be dismissed with prejudice, and Ground Two be transferred to the Court of Appeals for a determination of whether it may proceed in this Court.

January 20, 2016.

*/Thomas M. Rose

Thomas M. Rose
United States District Judge